

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TIMOTHY ASKEW,

Plaintiff,

-against-

SGT. THOMAS GALIARDI #996, P.O. JOSHUA
JONES #2764, and P.O. JOHN DOE,

Defendants.
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REPORT &
RECOMMENDATION
and ORDER
11-CV-2412 (ENV)

GOLD, STEVEN M., U.S.M.J.:

Plaintiff, proceeding *pro se*, brings a civil rights action pursuant to 42 U.S.C. § 1983 alleging that police officers unlawfully stopped and searched him. Pursuant to my Order and the Order of the Honorable Eric N. Vitaliano, plaintiff filed an amended complaint on September 6, 2011, naming the individual officers and the City of New York as defendants. Docket Entry 12. Plaintiff's amended complaint, however, fails to comply with Judge Vitaliano's Order that "any complaint against the City of New York must comply with *Monell v. Dep't of Social Servs.*, 436 U.S. 658, 691, 98 S. Ct. 2018, 2036 (1978)." Docket Entry 7. The Order also warned plaintiff that "[f]ailure to do so will result in dismissal of the putative claim against the City." *Id.* The amended complaint does not allege any policy, practice, or custom of the City of New York to hold it liable under § 1983. Accordingly, I respectfully recommend that the City of New York be dismissed from the action.

Any objections to this recommendation must be filed with the Clerk of the Court within fourteen days of this report and in any event no later than September 26, 2011. Failure to object to this report may waive the right to appeal the district court's order. *See* 28 U.S.C. § 636(b)(1);

FED. R. CIV. P. 72; *See Small v. Sec'y of Health & Human Services*, 892 F.2d 15, 16 (2d Cir. 1989).

In any event, the Clerk shall now issue summonses and direct service on the individual defendants by the United States Marshals Service. The Clerk shall also correct the caption on ECF to indicate the named individual defendants.

SO ORDERED.

/s/
Steven M. Gold
United States Magistrate Judge

Brooklyn, New York
September 8, 2011

A copy of this R&R and Order will be mailed on this day to plaintiff at both Brooklyn addresses.

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